

COMMUNITY CARE FACILITIES
SUMMARY OF 1995 CHAPTERED LEGISLATION

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SECTION I

IMMEDIATE ACTION REQUIRED

Assembly Bill 1523 (Granlund) Chapter 540

AFFECTS: all community care facilities (group homes, foster family homes, small family homes, family homes certified by foster family agencies, adult residential facilities, social rehabilitation facilities, adult day care facilities and adult day support centers)

SUBJECT: complaint documentation and child welfare services

SUMMARY: Health and Safety Code Section 1538 now requires the following:

- o Licensing agency staff will keep confidential all documents relating to unfounded complaints. This includes complaints intended to harass licensees, complaints without reasonable basis, and complaints determined to be unfounded following a site inspection.
- o Following complaints investigations which include site visits, licensing agency staff must notify licensees in writing within 30 days of determination that the allegations are unfounded.

In addition, this bill makes important changes in the Welfare and Institutions Code and the Evidence Code to improve the Child Welfare Services, foster care, and adoptions programs.

IMPLEMENTATION: This new statute is sufficiently clear to implement without new regulations. File documents relating to unfounded complaints in confidential files. When complaints are determined to be unfounded following site visits, notify licensees in writing within 30 days.

Evaluator Manual Reference Section 3-2000, which specifies complaint procedures, will be updated to address harassment complaints.

Assembly Bill 1525
(Granlund) Chapter 724

AFFECTS: foster family homes and small family homes

SUBJECT: out-of-home care for children eligible for Indian Child Welfare Act services

SUMMARY: AB 1525 amended the Health and Safety Code and the Welfare and Institutions Code as follows:

- o Health and Safety Code Section 1505(n) exempts from licensure homes exclusively for eligible Indian Child Welfare Act children, including homes of extended family members and foster homes licensed, approved or specified by the children's tribes.
- o For children eligible for Indian Child Welfare Act services, Welfare and Institutions Code Section 272 authorizes the Department of Social Services to enter into agreements with Indian tribes for the provision of child welfare services and AFDC-FC foster care payment responsibilities.

IMPLEMENTATION: Homes with Indian children should have the information below on file. To determine when a home is exempt from licensure under Section 1505(n), licensing agency staff will obtain the name of the caseworker from the child's care provider. With the caseworker, licensing staff will confirm:

- o The child's eligibility for Indian Child Welfare Act services,
- o The child's tribe,
- o Whether the home has been licensed, approved or specified by the child's tribe, and
- o Whether the child is in the home of an extended family member. The child's extended family means those individuals defined by the law or custom of the Indian child's tribe. Lacking law or custom, the extended family includes a person who is at least age eighteen and is the child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

Until the regulations are amended, use Health and Safety Code Section 1505(n) as the basis for licensure exemptions.

Assembly Bill 1976
(Burton) Chapter 648

AFFECTS: residential care facilities for the chronically ill and supportive housing arrangements for people with AIDS

SUBJECT: exemption from licensure

SUMMARY:

- o As amended by AB 1976, Section 1568.03(c) exempts housing arrangements from licensure if they provide only housing, meals, transportation, housekeeping, recreational and social activities, the enforcement of house rules, counseling on activities of daily living, and service referrals.
- o This exemption applies only if
 - Everyone living there obtains care and supervision and medical services without the assistance of anyone connected with the housing arrangement, and
 - No one living there has identified and unmet care and supervision needs.
- o Staff of unlicensed housing arrangements may refer people living there to sources of care, supervision and medical services but may neither provide nor arrange for these services.
- o A memorandum of understanding between a housing arrangement and service agencies to which people are referred does not necessarily mean that a CCLD license is required.

IMPLEMENTATION: This statute is sufficiently clear to be implemented without new regulations.

Carefully analyze memoranda of understanding between housing providers and service providers regarding care and supervision. When a memorandum of understanding creates a substantive connection between a housing provider and a provider of care and supervision, the housing arrangement is subject to licensure.

Senate Bill 295
(Peace) Chapter 840

AFFECTS: all community care facilities (group homes, foster family homes, small family homes, family homes certified by foster family agencies, adult residential facilities, social rehabilitation facilities, adult day care facilities and adult day support centers)

SUBJECT: disclosure of registered sex offender information

SUMMARY: Health and Safety Code Section 1522.01 places important new requirements on licensees who accept registered sex offenders.

- o Registered sex offenders --adults or minors-- must disclose this fact to licensees before becoming facility clients.
- o Without identifying clients by name, facilities must confirm or deny whether any clients are registered sex offenders on the request of any of the following:
 - The parent, family member or guardian of a child residing within a mile of the facility,
 - Anyone who occupies a personal residence within a mile of the facility,
 - Anyone who operates a business within a mile of the facility,
 - Any facility client or family member of a client,
 - Anyone applying for placement in the facility or for placement of a family member,
 - Anyone arranging for a client to be placed in the facility, and
 - Any law enforcement officer.
- o Following general confirmation that at least one client is a registered sex offender, anyone listed above may describe individual clients to licensees. When descriptions match clients, licensees must disclose those clients' names but may not disclose if those clients are or are not sex offenders.
- o Licensees must provide the designated California Department of Justice Child Molester Identification Line: 1-900-463-0400. For a small fee people calling this number can find out if a person is a registered sex offender who has victimized children.

IMPLEMENTATION: This statute is sufficiently clear to implement without new regulations.

- o Effective immediately licensees should inform all prospective clients --adults or minors-- that they are required by law to disclose if they are registered sex offenders.
- o Without giving client names, licensees must respond to inquiries from the individuals listed above regarding registered sex offenders in the facility.
- o After confirming that there are registered sex offenders in the facility, licensees must reveal a client's name, if the person asking can describe a specific client clearly enough for identification.
- o Licensees may not disclose whether or not any identified client is a registered sex offender.
- o Licensees must instead give the telephone number of the California Department of Justice Child Molester Identification Line, 1-900-463-0400, so that the person inquiring can confirm the client's sex offender registration status. Through that number, the California Department of Justice will confirm or deny a person's sex registration status only if he has victimized children.
- o CCLD's role in enforcing this statute will be limited to responding to complaints that licensee are not asking new clients if they are registered sex offenders, not disclosing when appropriate inquiries are made, or are misusing the information clients disclose to them.

Senate Bill 815
(Peace) Chapter 706

AFFECTS: adult residential facilities, group homes and social rehabilitation facilities.

Note: foster family homes, small family homes and family homes certified by foster family agencies are categorically excluded from these requirements.

SUBJECT: neighborhood complaint procedures

SUMMARY: Senate Bill 815 amended the Community Care Facilities Act as follows.

- o Health and Safety Code Section 1524.5(c) extends to July 1, 1996 the date by which community care facilities --with the exceptions below-- must comply with Sections 1524.5(a) and (b).
- o Section 1524.5(a) requires community care facilities with capacities of six clients or fewer to provide procedures approved by the licensing agency for immediate response to incidents and complaints.
- o These procedures must include:
 - How the owner, licensee or their designee will be notified of neighborhood incidents and complaints,
 - How the owner, licensee or their designee, will fulfil the responsibility for investigating them personally, and
 - How those making complaints or reporting incidents will receive written responses regarding the actions taken or the reasons why no action needs to be taken.
- o Section 1524.5(b) requires each facility to establish fixed times each week when the owner, licensee or their designee will be on the premises. These designated times must give concerned individuals opportunities to file complaints directly and must give the owner, licensee or their designee the opportunity to meet local residents and learn their concerns.
- o Section 1524.5(a) exempts family homes certified by foster family agencies, foster family homes and small family homes from the neighborhood complaint requirements above.

IMPLEMENTATION: This statute is sufficiently clear to implement without regulations. Affected facilities must have CCLD-approved neighborhood complaint procedures by July 1, 1996. To give CCLD sufficient time to evaluate their complaint procedures, licensees should submit them at least a month before that date.

Review submitted procedures for compliance with the statute. Prior to July 1, 1996, ask facilities submitting procedures which do not comply with the statute to revise and resubmit them. After that date, cite facilities for violations of Section 1524.5 when they fail to submit procedures and when they submit procedures which do not comply with the statute. The statute does not require CCLD to notify licensees after their complaint procedures have been approved.

Facilities not following established and approved procedures should be cited for violations of Health and Safety Code Section 1524(a) or (b) as appropriate.

After July 1, 1996 applicants for licensure of affected facilities will be required to submit neighborhood complaint procedures. Application forms will be revised.

Regulations are being written to require licensees to make complaint procedures known to interested parties.

SECTION II

REGULATIONS OR ADDITIONAL INSTRUCTIONS TO BE DEVELOPED

Senate Bill 815 (Peace) Chapter 706

AFFECTS: adult residential facilities

SUBJECT: administrator certification

SUMMARY: Health and Safety Code Sections 1550, 1551, 1562.3 and 1562.4 make a number of changes to the adult residential facility administrator training program.

- o The Department of Social Services must implement an administrator certification program by July 1, 1996.
- o The initial training must last at least 35 hours.
- o Any person who becomes an adult residential facility administrator on or after July 1, 1996 must:
 - Be at least 21 years of age;
 - Complete a Department-approved training program, pass a Department-administered examination and submit appropriate documentation for certification;
 - Have a high school diploma or pass a general educational development test; and
 - Obtain a criminal record clearance.
- o Licensee must notify the department within 30 days of changes in administrators.

IMPLEMENTATION: Emergency regulations were effective in January 1, 1996. This allows sufficient time for training vendors to develop programs and for currently employed administrators to meet these new requirements.

SECTION III

INFORMATION ONLY

Senate Bill 1161 (Leslie) Chapter 890

AFFECTS: residential care facilities for the elderly, adult residential facilities, social rehabilitation facilities, adult day care facilities and adult day support centers

SUBJECT: adult abuse penalties

SUMMARY: According to Penal Code Section 288 as amended by SB 1161, sexual abuse of dependent adults by their caretakers --including facility owners, licensees, staff and volunteers-- is now a felony.

Senate Bill 1262 (Alquist) Chapter 509

AFFECTS: foster family homes and small family homes

SUBJECT: license exemptions

SUMMARY: The California Judicial Council will establish a pilot project in Santa Clara County and up to four additional counties. In selected counties, homes of non-relative extended family members will be exempt from licensure until January 1, 2001.

Selected pilot counties and affected licensing agencies will be notified approximately July 1, 1996.

Children with special health care needs may not be placed in license-exempt facilities.